

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALLAN THOMAS ROCKWELL,
Plaintiff,
v.
TUOLUMNE COUNTY, et al.,
Defendants.

Case No. 1:22-cv-00392-JLT-EPG

ORDER GRANTING PLAINTIFF'S MOTION
FOR EXTENSION OF TIME TO RESPOND
TO ORDER TO SHOW CAUSE, DENYING
MOTION IN ALL OTHER RESPECTS
(ECF Nos. 8, 35)

Plaintiff Allan Thomas Rockwell ("Plaintiff") is proceeding *pro se* in this action against Tuolumne County, Michael Choate, Denise Choate, and Melissa Brouhard. (*See* ECF No. 1.)

The First Amended Complaint indicates that this action is brought by Plaintiff and by G.A.R., a minor, proceeding *pro se*. (*See* ECF No. 5.) On May 4, 2022, the Court issued an order for Plaintiff to show cause why G.A.R.'s claims should not be dismissed without prejudice. (ECF No. 8) Plaintiff was directed to file a written response within fourteen (14) days of service. (*Id.*)

On May 17, 2022, Plaintiff filed a response to the May 4, 2022 order to show cause, along with a motion for an extension of time to file a further response. (ECF Nos. 14, 15.) Plaintiff's response explained that he was searching for counsel for G.A.R. and himself. (ECF No. 14.) And he stated that if he could not obtain counsel, "he will use FRCP 17 Next Friend rule to obtain proper representation to enter an appearance for G.A.R." (*Id.*)

On May 18, 2022, the Court granted Plaintiff an extension to June 30, 2022, to file a

1 further response to the order to show cause. (ECF No. 17). However, the Court reiterated the
2 discussion in the order to show cause—that G.A.R. must be represented by counsel if this action
3 is to proceed on his or her behalf. (*Id.* at 2); *see Garcia v. City of Fresno*, 2017 WL 6383814, at
4 *4 (E.D. Cal. Dec. 14, 2017) (“It is established that a non-attorney parent must be represented by
5 counsel in bringing an action on behalf of the child.”).

6 This matter is now before the Court on Plaintiff’s motion to grant him permission to
7 represent minor G.A.R. or to grant him an extension of time to respond to the order to show cause
8 and filings from Defendants objecting to him representing the minor child. (ECF No. 35). As for
9 the request to represent G.A.R., the Court reiterates once again that Plaintiff cannot pursue a
10 claim on behalf minor G.A.R. absent counsel. Accordingly, the Court will not permit Plaintiff to
11 proceed *pro se* and pursue a claim on behalf of G.A.R., nor will the Court grant Plaintiff an
12 extension to file a reply to Defendants’ objections to him pursuing a claim on behalf of G.A.R.
13 (*See* ECF Nos. 20-21).

14 As for the request for an extension of time, Plaintiff states that he has been searching for
15 an attorney to represent him and G.A.R. but has thus far been able to secure an attorney. He asks
16 for additional time, until July 21, 2022, to respond to the order to show cause. Given that Plaintiff
17 represents that he is currently searching for counsel to represent him and G.A.R., the Court will
18 grant Plaintiff one final extension to respond to the order to show cause. If counsel enters an
19 appearance on behalf of G.A.R. by this deadline, the Court will vacate the order to show cause. If
20 there is no such appearance, the Court will recommend that minor G.A.R.’s claims be dismissed
21 without prejudice.

22 Accordingly, IT IS HEREBY ORDERED that:

23 1. Plaintiff’s motion (ECF No. 35) is granted to the extent that Plaintiff seeks an
24 extension of time to respond to the show cause order and the motion is denied in all
25 other respects.

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2. The deadline for Plaintiff to file a further response to the May 4, 2022 order to show cause (*see* ECF No. 8) is extended to July 21, 2022.

IT IS SO ORDERED.

Dated: July 1, 2022

/s/ Eric P. Gross